

REQUEST FOR APPROVAL

To: Ted Rauh
Deputy Director, Compliance & Enforcement Division

From: John Halligan
Branch Chief, Recycling Enforcement Branch

Request Date: April 13, 2011

Decision Subject: Approval of Scope of Work for Interagency Agreement with Department of Justice/Bureau of Investigation & Intelligence for Investigation and Prosecution of Criminal Activity associated with the Beverage Container Recycling Program. (Beverage Container Recycling Fund FY 2011/12, 12/13 & 13/14)

Action By: April 22, 2011

Summary of Request:

The California Beverage Container Recycling and Litter Reduction Act (Act) requires beverage distributors selling or distributing beverages included in the Act to make a redemption payment of five cents or ten cents per container for each covered beverage sold or distributed in CA. This money goes to the California Beverage Container Recycling Fund (CBCRF) for each beverage container they sell or offer for sale to retailers and others in California and is paid out of the CBCRF to reimburse processors for California Refund Value (CRV) they paid to certified recyclers who redeemed CRV eligible containers and paid the corresponding CRV to consumers who present empty, CRV eligible containers to them for redemption.

Since the inception of the program there have been unscrupulous individual and entities intent on defrauding the CBCRF by redeeming non-qualifying containers (i.e., imported from out-of-State, out-of-country, or previously redeemed empty beverage containers) for CRV. Although these empty beverage containers may be labeled as CRV, they do not qualify for CRV because they were not sold or offered for sale in California or were previously redeemed for CRV. As a result, the CBCRF losses five or ten cents per container for every out-of-state beverage container or previously redeemed beverage container illegally redeemed for CRV. The impact to the CBCRF associated with the CRV redemption of non-qualifying materials has been estimated to range from \$30 to \$50 million annually.

Although the Act provides CalRecycle with the authority to pursue enforcement and seek administrative remedy against certified and registered program participants committing program-related fraud. CalRecycle does not have the authority to criminally prosecute program participants or individuals. In FY 2000/01, in recognition that CalRecycle (formerly the Department of Conservation) and the Department of Justice (DOJ) each play an important role in protecting the CBCRF established an agreement for DOJ arrest and criminally prosecute individuals and/or entities perpetrating fraud against the CBCRF. By

approving the renewal of this IAA, both parties will continue to join forces to work cooperatively toward our mutual goal to protect the solvency of the CBCRF.

Funding Information:

Fiscal Year	Fund Source	Amount Available	Amount to Fund Item	Amount Remaining	Line Item
2011/2012	CBCRF Clearing Account	\$3,553,000.00	\$3,553,000.00	\$0	Contract

Recommendation: Staff recommends that you approve the attached scope of work for this IAA.

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval, I hereby approve the Scope of Work for Interagency Agreement with Department of Justice/Bureau of Investigation & Intelligence for Investigation and Prosecution of Criminal Activity associated with the Beverage Container Recycling Program. (Beverage Container Recycling Fund FY 2011/12, 12/13 & 13/14)

Dated: [April 27, 2011]



Ted Rauh
Deputy Director, Compliance and Enforcement Division

Dated: [April 27, 2011]



Tom Estes
Deputy Director, Administrative Services Division